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## Antitrust

Zelle Hofmann attorneys have been practicing antitrust litigation and counseling for over 30 years. We represent plaintiffs and defendants in price-fixing, monopolization, mergers and acquisitions, restraint of trade, distribution and price discrimination cases, including both individual cases and class actions. We have practiced in federal and state courts and administrative agencies throughout the country. Zelle Hofmann attorneys represent consumers, small businesses, multi-national corporations, and state and national plaintiff classes. We are experienced in counseling clients on a wide variety of non-litigation antitrust matters, including, among others, issues related to antitrust compliance programs, mergers and acquisitions, Robinson-Patman Act matters, and the formation and operation of joint ventures. We have represented parties in patent infringement cases involving claims or defenses asserting antitrust violations. We also represent corporate plaintiffs which elect to opt-out of class actions, and have obtained significantly greater recoveries on their behalf than obtained by class plaintiffs.

***View summaries of antitrust cases.***

## Antitrust Cases

### Examples of Current Antitrust Cases

***Air Cargo Shipping Services Antitrust Litigation (U.S. District Court, E.D.N.Y.).*** Zelle Hofmann represents a nationwide class of indirect purchasers of Air Cargo shipping services in this multidistrict class action. A partial settlement has been reached with one defendant for \$85 million, and a proceeding is currently underway to allocate the settlement proceeds between indirect purchasers and other plaintiffs in the litigation.

***Cosmetics Antitrust Litigation (U.S. District Court, N.D. Cal.; California Superior Court, Marin County).*** A consumer class action on behalf of California purchasers seeking redress for alleged price-fixing by department stores and manufacturers of high-end cosmetics and beauty products. The complaint alleges that the department stores and manufacturers violated and continue to violate the California Cartwright Act and the Unfair Competition Act. The case settled for injunctive relief and consideration valued at \$175 million.

***Credit/Debit Card Tying Cases (California Superior Court, San Francisco).*** Zelle Hofmann is Lead Counsel in a consumer class action lawsuit against Visa U.S.A., Inc., Visa International Corp. and MasterCard International, Inc., alleging that defendants and others collusively set unreasonably high charges for debit cards that vendors passed on to consumers in the form of higher prices on retail goods and services. The complaint alleges violations of California's Unfair Competition Law, and seeks injunctive relief and restitution arising from defendants' alleged illegal tying arrangements and anti-competitive activities.

***Chinese Vitamin C Antitrust Litigation (U.S. District Court, California and Massachusetts State Courts).*** Zelle Hofmann has been retained by a major Chinese manufacturer of Vitamin C and certain of its affiliates in connection with federal and state antitrust actions filed on behalf of putative classes of direct and indirect purchasers. The federal direct purchaser case was filed in the Eastern District of New York. Indirect purchaser cases have been filed in California and Massachusetts. All of the complaints allege a price-fixing conspiracy among four Chinese manufacturers beginning in December 2001.

***DRAM Antitrust Litigation (U.S. District Court, N.D. Cal.; California Superior Court, San Francisco).*** Zelle Hofmann is the Court-appointed Liaison Counsel and a member of plaintiffs' Executive Committee, in a nationwide class action



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brought by indirect purchasers of DRAM. Plaintiffs allege that DRAM manufacturers conspired to fix the prices from April 1, 1999 through December 31, 2002. The class includes purchasers of computers and other products containing DRAM, and seeks injunctive relief and damages under state and federal laws. The case is pending in the U.S. District Court for the Northern District of California before Judge Phyllis J. Hamilton. A partial settlement has been reached with one defendant for \$82.5 million.

***EPDM Antitrust Litigation (U.S. District Court, D. Conn.)*** Zelle Hofmann represents a large corporate plaintiff which opted out of a class settlement and is pursuing separate litigation in connection with an alleged conspiracy to fix prices and allocate market shares by manufacturers of EPDM, a synthetic rubber product.

***Flash Memory Antitrust Litigation (U.S. District Court, N.D. Cal.)*** Zelle Hofmann serves as the court-appointed Co-Lead Counsel representing a nationwide class of indirect purchasers of Flash Memory products in this multi-district antitrust class action filed against the largest manufacturers of Flash Memory. Plaintiffs allege that these companies conspired to fix, raise and maintain the prices of Flash Memory. These cases are consolidated before Judge Sandra B. Armstrong in the U.S. District Court for the Northern District of California.

***Intel Corp. Microprocessor Antitrust Litigation (U.S. District Court, D. Del.)*** Zelle Hofmann represents consumers in a nationwide class action against Intel on behalf of consumer and business purchasers of x86 microprocessors used in personal computers and other products. The complaint alleges that Intel abused its dominant position in the x86 microprocessor market by, among other things, engaging in exclusive dealing arrangements with various Original Equipment Manufacturers such as Dell, HP, IBM/Lenovo, and NEC in an effort to lock AMD out of several key market segments. The complaint alleges that as a result of these practices consumers and businesses paid artificially high prices for products containing Intel's x86 microprocessors. The cases are consolidated before Judge Joseph Farnan in the U.S. District Court in Delaware, along with the related individual competitor action filed by AMD.

***Linerboard Antitrust Litigation (U.S. District Court, E.D. Pa.)*** Zelle Hofmann represents, as opt-outs, three major international companies in this federal antitrust action against integrated manufacturers of linerboard, corrugated medium, and corrugated containers. The complaint alleges that the manufacturers violated U.S. antitrust laws by, among other things, conspiring to reduce linerboard inventories and thereby increase prices. The complaint seeks damages and injunctive relief.

***Microsoft Antitrust Litigation (California Superior Court, San***



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**Francisco).** Zelle Hofmann is the Court-appointed Liaison Counsel and Chair of the Plaintiffs' Executive Committee, in this indirect purchaser class action on behalf of an estimated fourteen million California consumers and businesses. The Class alleges that Microsoft illegally acquired and maintained monopolies in the markets for Microsoft's MS-DOS and Windows operating system software, as well as its Word and Excel applications software, in violation of California's Cartwright Act and Unfair Competition Act. The plaintiffs allege that, as a result of Microsoft's illegal conduct, they were overcharged for this software. In early 2003, on the eve of trial, after over three years of intensive litigation, the case settled for \$1.1 billion.

***Microsoft Antitrust Litigation (Hennepin County District Court,***

***Minnesota).*** Zelle Hofmann is the court-appointed Co-Lead Counsel for a class of indirect purchasers of Microsoft's operating systems, word processing and spreadsheet software certified by the Hennepin County District Court in Minnesota. The action is brought pursuant to Minnesota antitrust law. In June 2002, the Minnesota Supreme Court upheld the decision of the Minnesota Court of Appeals not to review the District Court's order granting plaintiffs' motion for class certification. Plaintiffs subsequently defeated Microsoft's motions for partial summary judgment and to decertify the classes. On March 1, 2004, plaintiffs, led by Zelle Hofmann, began the first-ever antitrust, consumer class action jury trial against Microsoft. Six weeks later, after plaintiffs introduced evidence of Microsoft's anticompetitive conduct that had never been publicly disclosed following the direct testimony of plaintiffs' liability expert, the parties reached a settlement for over \$175 million, the largest in the history of Minnesota consumer antitrust litigation.

***Microsoft Antitrust Litigation (Iowa District Court for Polk County).***

Zelle Hofmann serves as the court-appointed Co-Lead Counsel for a class of indirect purchasers of Microsoft's operating systems, word processing and spreadsheet software, certified by the Polk County District Court in Iowa under state antitrust law. On November 13, 2006, plaintiffs, led by Zelle Hofmann and co-counsel, began the second-ever antitrust, consumer class action jury trial against Microsoft (after having successfully faced Microsoft at trial in Minnesota state court, in 2004, in a similar proceeding). Three months into trial, the parties reached a settlement for close to \$180 million in cash payments to consumers and vouchers to volume licensees and state and local governments. This is the first Microsoft action to include cash payments to consumers. One-half of unclaimed proceeds will be paid in technology vouchers to Iowa public schools. Additionally, Iowa Legal Aid received \$1 million in cash out of the cy pres funds. The settlement received final approval on August 31, 2007.



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***Microsoft Antitrust Litigation (Milwaukee County (Wisconsin) Circuit Court).*** Zelle Hofmann serves as the court-appointed Co-Lead Counsel for a class of indirect purchasers of Microsoft's operating systems, word processing and spreadsheet software, certified by the Milwaukee County District Court in Wisconsin under state antitrust law. The parties reached a settlement for close to \$224 million in vouchers to consumers, businesses, and state and local governmental entities. One-half of unclaimed vouchers goes to needy Wisconsin public schools in the form of technology vouchers which can be used for most software and hardware. The settlement received final approval on April 6, 2007.

***Microsoft Antitrust Litigation, California Government Entities (U.S. District Court, D. Md.)*** Zelle Hofmann is co-counsel for a class of California government entities, including the City of San Francisco and Los Angeles, Santa Clara, Contra Costa, and San Mateo counties as plaintiffs and class representatives, against Microsoft for unlawful monopolization of operating system, word processing, and spreadsheet software markets. The parties reached a settlement for \$70 million.

***Natural Gas Antitrust Cases (U.S. District Court, D. Nev.; California Superior Court, San Diego).*** Federal and state class actions against marketers of natural gas in California, alleging violations of the Sherman Act, California Cartwright Act and the Unfair Competition Act. The actions are brought on behalf of direct and indirect persons and entities in California who purchased natural gas between January 1, 2000 and December 31, 2001, i.e., during the California Energy Crisis. The actions allege that, among other things, the defendants and their co-conspirators engaged in a variety of anticompetitive practices which raised interstate natural gas transportation prices, the bundled price of natural gas, spot natural gas prices, and natural gas market basis swap derivative settlement amounts in and for California. Zelle Hofmann is Co-Lead Counsel in the federal case and a member of the Executive Committee in the state case. Partial settlements totaling approximately \$160 million have been reached and approved by the Court to date.

***New Motor Vehicles Canadian Export Antitrust Litigation (U.S. District Court, D. Maine).*** Zelle Hofmann has a major role in class actions on behalf of new car buyers against the major new car manufacturers, alleging a conspiracy to prevent lower-cost new cars from being exported from Canada to the United States, thereby causing higher prices for new cars in the United States. The firm is Liaison Counsel in the California state court action, which is coordinated with a nationwide federal action pending in the United States District Court in Portland, Maine. Plaintiffs have secured over \$35 million to date in partial settlements.



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***Pharmacy Benefit Managers Antitrust Litigation (U.S. District Court, E.D. Pa.).*** Zelle Hofmann represents a nationwide class of retail pharmacists alleging antitrust violations by Medco, the leading Pharmacy Benefits Manager, and Merck, a leading pharmaceutical manufacturer, in connection with the pricing and distribution of prescription drugs.

***Smokeless Tobacco Antitrust Litigation (California Superior Court, San Francisco).*** Plaintiffs have obtained preliminary approval of a \$96,000,000 settlement in the Smokeless Tobacco Antitrust Litigation pending in the California Superior Court in San Francisco, California. Zelle Hofmann attorneys have been integrally involved in this litigation, as the firm serves on the Executive Committee, and was extensively involved in all aspects of this case. The settlement was achieved after five years of hard-fought litigation, after the completion of most discovery, as trial approached, and in the context of a court-ordered mediation before a former Justice of the California Court of Appeal. The proposed settlement compensates a class of California indirect purchasers of moist snuff products which alleged that U.S. Smokeless Tobacco monopolized the moist snuff market and engaged in restrictive and exclusionary acts during the time period 1990 to the present in violation of California state antitrust laws.

***Static Random Access Memory (SRAM) Antitrust Litigation (U.S. District Court, N.D. Cal.).*** Zelle Hofmann serves as the court-appointed Lead Counsel representing a nationwide class of indirect purchasers of SRAM products in this multi-district antitrust class action filed against the largest manufacturers of Static Random Access Memory (SRAM). Plaintiffs allege that these companies conspired to fix, raise and maintain the prices of SRAM. These cases are consolidated before Judge Claudia Wilken in the U.S. District Court for the Northern District of California.

***Sullivan et al. v. DeBeers et al. (U.S. District Court, D.N.J.).*** Zelle Hofmann represents consumers in a class action lawsuit brought on behalf of diamond purchasers in the United States, alleging that the De Beers group of companies unlawfully monopolized the gem diamonds market. The court preliminarily approved a class actions settlement on March 31, 2006. The Settlement created a \$272.5 million Settlement Fund for resellers and consumers who purchased diamonds from January 1994 through December 2005. In addition, as part of the settlement, De Beers agreed to a stipulated injunction, which provides that De Beers will not engage in certain conduct that would violate U.S. antitrust laws, and will submit to the Court's jurisdiction for the purpose of enforcement of the injunction. A hearing on final approval of the settlement is expected to occur in early spring 2008.